

Remarks

Claims 25-38 and 40-48 are pending in this Application. Claims 1-24, 39 and 49-67 have been previously canceled without prejudice. In the Office Action made final and mailed on the date of January 29, 2008, the Examiner reiterated a previous rejection against Claims 25-38 and 40-48 under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a), as being unpatentable over JP 11-010631 (herein “Yamada” and referred to previously as Matsushita). The previous rejection was mailed October 10, 2007, to which Applicants responded on January 8, 2008.

Applicants with this paper respectfully submit that the Examiner has misunderstood certain details of the cited reference and respectfully requests reconsideration of Applicants’ remarks mailed on January 8, 2008. Applicants summarize such remarks herewith and also refer the Examiner to the response dated January 8, 2008.

Applicants respectfully submit that Yamada teaches about Chemical Oxygen Demand (COD) of filtrated water and not fibers. In the Abstract (page 2, ll. 21-22), Claim 1 (line 18) and in the specification (para. [0005], line 33), Yamada specifically points out that pulp COD is not the COD in fiber but a measurement of COD in filtered water provided by the expression:

$$\text{Pulp COD} = (\text{COD of the filtered solution A}) - (\text{COD of the filtered solution B}).$$

From the above expression, Yamada, in paragraph [0005] extrapolates that the pulps that they prefer to use are those “having 5 ppm or less of pulp COD,” which really means that preferred *cement* preparations (that include pulp) are those that had some filtrated water extracted therefrom and the filtrated water had a COD of 5 ppm or less and the filtrated water COD was measured as: (COD of the filtered solution A) – (COD of the filtered solution B).

The method of obtaining the filtrated water is provided by Yamada in paragraph [0007]. Paragraph [0007] also clearly shows that all COD calculations are made only on the filtrated water and that no COD calculations are ever made on fibers, themselves. Yamada also does not

teach any pre-treating of pulp or of fibers. In Yamada, Portland cement and pulp are merely mixed and stirred after which filtrated water is extracted and measured (para. [0005]). When the filtrated water from such a procedure has a COD of 5 ppm or less, then the pulp is used to make an inorganic plate. Thus, Yamada does not in any way measure COD in pulp or in fibers. One of ordinary skill in the art understands that there is no known correlation between COD content in *filtrated water* and COD content in fibers.

Thus, Yamada does not teach anything about reducing COD in fibers or any of the elements of Applicants' claimed invention including "wherein at least a portion of the fibers are pretreated with an elevated temperature washing process to reduce COD content to less than 4.5 kg/ton" or "wherein the elevated temperature is between about 65 degrees Centigrade to about 120 degrees Centigrade" or "wherein the reduced COD fibers comprise about 2% to 20% of the formulation by weight" or "wherein the reduced COD cellulose fibers add strength reinforcement to the composite building material." As such, Yamada does not anticipate the claims.

Because Yamada also teaches nothing about reducing COD in fibers, Yamada does not make Applicants' claimed invention unpatentable. And, there is no suggestion of any kind that can be relied on by Yamada for a showing of obviousness. Yamada does not provide any suggestion or motivation to reduce fiber COD content. Yamada only teaches about calculating extracted filtrated water COD from a cement preparation. One of ordinary skill in the art could not look to Yamada and arrive at Applicants' claimed invention. Yamada provides no expectation for success as to Applicants' claimed invention because it teaches something completely different. Finally, Yamada does not teach or suggest all the elements of Applicants' claimed invention. Thus, Applicants have shown that Yamada does not anticipate and is not obvious over their claimed invention.

For the reasons set forth herein (which are similar to those previously provided in a response mailed January 8, 2008), Applicants' respectfully submit that the finality of the Office Action mailed January 29, 2008, is premature because the remarks as submitted herewith and previously mailed January 8, 2008, show that the rejection under 35 U.S.C. § 102(b) and 35

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U.S.C. § 103(a) should have been removed. Applicants respectfully request the Examiner remove the finality of the Office Action mailed January 29, 2008, and remove the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

Conclusion

Applicants respectfully submit that the Application is in condition for allowance, and pursuant to the filing of this amendment and response, Applicants earnestly seek such allowance of Claims 25-38 and 40-48 as provided in the Listing of Claims beginning on page 3 of this paper.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214.999.4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1022. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

This is intended to be a complete response to an Office Action mailed January 29, 2008.

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**Please direct all correspondence to the practitioner listed below at Customer No.
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Respectfully submitted,


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Dated: March 31, 2008